

No. 9/5/84/6-Lab/8213.—In pursuance of the provisions of section 17 of Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and management of M/s Executive Engineer, Sonapat Drainage Division, Sonapat.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 126 of 1982

between

SHRI KAPOORA, WORKMAN AND THE MANAGEMENT OF M/S EXECUTIVE ENGINEER,
SONEPAT, DRAINAGE DIVISION, SONEPAT

Present.—

Shri Bahadur Yadav, for the workman.

None, for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute between the workman Shri Kapoora and the management of M/s. Executive Engineer, Sonapat Drainage Division Sonapat, to this Court, for adjudication,—vide Labour Department Gazette Notification No. ID/SPT/28/82/27568, dated 18th June, 1982:—

Whether the termination of services of Shri Kapoora, was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, usual notices were issued to the parties appeared. The case of the workman is that he was employed as Beldar with the respondent on monthly wages of Rs. 324.60 but his services were terminated by the respondent unlawfully on 3rd January, 1982 without complying with the provisions of the Industrial Disputes Act, 1947.

3. A detailed reply was filed by the respondent, controverting the allegations made by the claimant. The pleas projected are that the reference is not maintainable in the present form and no cause of action has accrued in favour of the claimant, who is not a 'workman' as defined in section 2(s) of the Industrial Disputes Act, 1947, and further the respondent is not an "Industry" as defined in section 2(J) of the said Act. Another plea projected is that the reference is barred by limitation. On merits also the claim of the workman has also been substantially controverted.

4. In the replication filed by the workman, he has asserted the correctness of the allegations made in the claim statement.

5. On the pleadings of the parties, following issues were settled for decision on 25th October, 1982 :—

(1) Whether the respondent is not covered under the definition of Industry ?

(2) Whether the termination of service of Shri Kapoora was justified and in order ? If not, to what relief is he entitled ?

6. The management examined MW-1 Shri S.S. Mittal and MW-2 Shri Jit Singh and MW-3 Shri Surinder Kumar, Junior Engineer and closed its case. The workman appeared as his own witness as WW-1.

7. The learned authorised representative of the workman Shri Bahadur Yadav frankly conceded that in view of the full bench authority reported in 1984 Lab. I. C. 1165 Om Parkash vs. Management of Executive Engineer SYL Division No. 7, Canal Colony, Kurukshetra and another the respondent which is the Irrigation Department of the Government of Haryana, is not an "Industry" as defined in section 2(J) of the Industrial Disputes Act, 1947 and so this reference is not competent. In view of the full bench authority reported above, I find that the respondent is not an "Industry" and as such the reference is bad in law and the same is answered and returned accordingly. There is no order as to cost.

Dated the 11th October, 1984.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sonapat.

Endorsement No. 126-82/3510, dated the 8th November, 1984

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sonapat.